

Louisville Metro Air Pollution Control District
Response to Informal Comments
Permit Program Amendments
Proposed December 10, 2012

Note: Lists of commenters, acronyms and abbreviations may be found at the end of the document.

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<p>General</p> <p>The proposed new and revised definitions should be consistent with the definitions of those terms in the federal regulations to ensure consistent application.</p> <p>- <i>GLI ATTF</i></p>	<p>General-1</p> <p>The District's regulations, including definitions, may, and often do, differ from federal regulations. For that reason, the District's regulations include a general glossary of terms in Regulation 1.02. More specific glossaries are included in individual regulations, such as Regulation 2.16, when needed for clarity.</p>
<p>General</p> <p>The District is encouraged to develop general permits and permits-by-rule for common activities.</p> <p>- <i>GLI ATTF</i></p>	<p>General-2</p> <p>The District is committed to continuing to streamline and refine its permitting process. This will include, among other things, developing permits-by-rule, general permits, and a combined constructing/operating permit program for Title V and FEDOOP sources.</p>
<p>General</p> <p>The regulations should be more precise in using the terms "stationary source," "affected facility," and "emissions unit" to clarify what provisions apply to an entire stationary source versus to an individual affected facility or emissions unit, since a source may have multiple affected facilities or emissions units.</p> <p>- <i>GLI ATTF, PIAS</i></p>	<p>General-3</p> <p>"Stationary source" and "affected facility" are defined in Regulation 1.02. "Emissions unit" is defined in Regulation 2.16 for use in that regulation. The defined terms have been used to give effect to their meaning.</p>
<p>General</p> <p>The structure of the regulations as amended is not sufficiently clear for a member of the regulated community to determine what type of permit is required and what compliance, monitoring, recordkeeping, reporting, and other</p>	<p>General-4</p> <p>The proposed regulatory changes are intended to improve the District's current permitting structure, which offers limited types of operating permits. New types of permits, including relevant applicability and</p>

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<p>requirements will apply. Each permit type should have its own regulation, clearly titled, that lays out the applicability and requirements for that permit type.</p> <p>- <i>GLI ATTF</i></p>	<p>regulatory requirements, have been proposed in independent sections of Regulations 2.02 and 2.03. The District is committed to helping stationary sources determine the most appropriate permit type for their operation.</p>
<p>General</p> <p>Creating rules to implement a new combined operating and construction permit for minor sources should be done more clearly. "Minor Source" is only defined in Regulation 2.16, and the way in which the District uses the term "minor source" in Regulations 2.03 and 2.08 is not consistent with this definition. The District should either use a different term to differentiate what constitutes a minor source for purposes of Regulations 2.03 and 2.08, or separately define "minor source" in Regulation 1.02 for use in Regulations 2.03 and 2.08.</p> <p>In addition, the proposed set of amendments fails to include the creation of federally-enforceable district-origin minor source permits, which was presented in the District's Notice of Proposed Rulemaking (identified as proposed new Regulation 2.18: <i>Prohibitory Rule for District-Origin Minor Source Permits</i>).</p> <p>- <i>GLI ATTF</i></p>	<p>General-5</p> <p>"Minor sources" are defined in Regulations 2.04, 2.05, and 2.16 for purposes of those regulations. "Minor sources" for purposes of Regulation 2.03 were generally defined in section 2.6.1 of Regulation 2.08 by reference to other types of operating permits, i.e., not a Title V or FEDOOP source. The District will amend Regulation 1.02 to specifically define "minor source."</p> <p>As explained in the advance Notice of Proposed Rulemaking issued on July 24, 2012, the District has been exploring a variety of approaches that could be used to streamline its construction and operating permit programs, including the development of Regulation 2.18, <i>Prohibitory Rule For District-Origin Minor Source Permits</i>. In particular, the District discussed developing a new permit type to distinguish small sources willing to accept the thresholds proposed in Regulation 5.00 section 1.13.5 from sources permitted under Regulation 2.17. Stationary sources permitted under this new permit type would have avoided the increased STAR fees proposed in Regulation 2.08, been required to meet low emission limits and be regulated under the STAR Program's general duty clause, Regulation 5.01, rather than Regulation 5.21. The District has subsequently determined that the proposed revision to Regulation 5.00 section 1.13.5</p>

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	accomplishes the same results, but reduces confusion over applicable permit types and continues the District's efforts to streamline its permit program.

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<p>1.02 General</p> <p>The DAQ recommends the following edits:</p> <ul style="list-style-type: none"> • Check capitalization in all titles, “Regulation 1.02”, “Section 1,” for example; • Define minor sources, greenhouse gases, NO_x, PM, SO₂, CO, H₂S, permittee, R&D; • Delete one line between “Relates To” and “Necessity and Function” sections; • In Sections 1.3.1 through 1.3.4, delete one tab on each line to correct alignment; • In Section 1.35, make “incineration” definition a new line; • In Sections 1.42.5 and 1.42.6, the statements start with “are”; consider rewording because of subject-verb agreement. Suggestion: “Minor permit amendment” means a revision to a permit that: <u>is</u> not a modification... <u>is</u> not required to be...’ • In Sections 1.43.2.1 through 1.43.2.5, align lines with “An increase in the production rate” in Section 1.43.3.1. <p>- <i>DAQ</i></p>	<p>1.02-1</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly with the exception of the suggested definitions for greenhouse gases, NO_x, PM, SO₂, CO, H₂S, permittee, and R&D. Each of the pollutants is included in the list of acronyms and abbreviations, which are included in Regulation 1.03, while “permittee” and “R&D” are commonly used terms.</p>
<p>1.02 section 1.3</p> <p>The definition of “Administrative Permit Amendment” should be revised to be consistent with EPA’s at 40 CFR 70.7(d) and the state of Kentucky’s at 401 K.A.R. 52:020 (13).</p> <p>- <i>PIAS, GLI ATTF</i></p>	<p>1.02-2</p> <p>The definition in Regulation 1.02 section 1.3 mirrors the definition of “administrative permit amendment” in Regulation 2.16 section 1.3. Regulation 2.16 implements 40 CFR part 70 and concurs with 401 KAR 52:020. The definition has been tailored in Regulation 1.02</p>

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	to apply to those permits that are issued pursuant to Regulations 2.03 and 2.17 for purposes of determining fees under proposed Regulation 2.08.
<p>1.02 section 1.4</p> <p>The definition of “affected facility” should be clarified to mean a single emission unit or a separate definition of “emission unit” or should be added.</p> <p style="padding-left: 40px;">- <i>PIAS</i></p>	<p>1.02-3</p> <p>The District is not proposing to amend the definition of “affected facility.” “Emission unit” or “emissions unit” is defined separately in Regulations 2.04 and 2.16 for use in those regulations.</p>
<p>1.02 section 1.37</p> <p>The wording of this Section could suggest that, to be considered an insignificant activity, an affected facility must be on the District’s list of approved insignificant activities. If an affected facility satisfies the provisions in Sections 1.37.1.1 through 1.37.1.3, it should be considered an insignificant activity even if it is not on the District’s approved list.</p> <p style="padding-left: 40px;">- <i>GLI ATTF, PIAS</i></p>	<p>1.02-4</p> <p>The District intends for the listing on its website to be a convenience, not a prerequisite. Under the proposed definition in Regulation 1.02, an "insignificant activity" is defined by certain thresholds that are similar to those already approved for the District’s approved Title V and Federally Enforceable District Origin Operating Permit (FEDOOP) programs. There, as with the proposed regulation, insignificant activities may be determined on a case-by-case basis or by reference to a list of insignificant activities, which is maintained in accordance with Regulation 2.16 section 1.23.1.3 and available on the District’s website at http://www.louisvilleky.gov/NR/rdonlyres/95348DF9-044D-4FD5-B621-72AD7638F5C7/0/insignificant.pdf. The list includes those activities listed in Regulation 2.02 sections 2.1 through 2.3.</p>
<p>1.02 section 1.37</p> <p>If appearance on the list is a prerequisite to an affected facility being deemed an insignificant activity, the District’s list of approved insignificant activities must be made a part of</p>	<p>1.02-5</p> <p>See Response to Comment 1.02-4.</p>

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<p>the regulation, or incorporated by reference in the regulation. Otherwise, the District could arbitrarily make changes to the list without going through the required regulatory notice and comment process. An ever-changing list maintained on a website does not give the regulated community adequate notice of what the District deems an insignificant activity. The federal regulation governing state or local operating permit programs requires that lists of insignificant activities be approved by EPA as part of the delegated program. 40 C.F.R. § 70.5(c).</p> <p>- <i>GLI ATTF, PIAS</i></p>	
<p>1.02 section 1.37</p> <p>The definition of “Insignificant Activities” in this Section is not consistent with the definition of the term in the proposed revisions to Regulation 2.16.</p> <p>- <i>GLI ATTF, PIAS, KPC</i></p>	<p>1.02-6</p> <p>The definition in Regulation 1.02 section 1.37 mirrors the definition of “insignificant activity” in Regulation 2.16 section 1.23. Because insignificant activities are evaluated for purposes of Regulation 2.16 on the basis of uncontrolled emissions, the definition has been tailored in Regulation 1.02 to apply to permits that are issued pursuant to Regulation 2.03. The general prohibition against air pollution established in Regulation 1.09 applies to all activities in Louisville Metro, whether specifically referenced or not.</p>

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<p>1.02 section 1.37</p> <p>The regulation should provide suggested language that clarifies what is considered an insignificant activity. The suggested language would list conditions that must be met in order to be classified as an insignificant activity, if it does not meet the approved activities and requirements listed on the District's website or was not a previously approved activity in a Title V permit.</p> <p>- <i>LG&E, KPC</i></p>	<p>1.02-7</p> <p>See Response to Comment 1.02-4.</p>
<p>1.02 section 1.39</p> <p>The definition of "Major Source" in Regulation 1.02 should be identical to the definition of this term in Regulation 2.16 Section 1.25.</p> <p>- <i>GLI ATTF</i></p>	<p>1.02-8</p> <p>The District disagrees that the two definitions must be identical. The definition of "major source" in Regulation 1.02 section 1.39 is to be used "except as specified in another regulation for use in that regulation." See, for example, Regulation 6.42, <i>Reasonably Available Control Technology Requirements for Major Volatile Organic Compound- and Nitrogen Oxides-Emitting Facilities</i>. Regulation 2.16 section 1.25 specifies the definition to be used in the Title V program.</p>
<p>1.02 section 1.40</p> <p>The definition of "Major Source" should be revised to include language addressing greenhouse gases consistent with EPA's Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 82254 (Dec. 30, 2010).</p> <p>- <i>LG&E, GLI ATTF</i></p>	<p>1.02 -9</p> <p>The District revised Regulations 2.05 and 2.16 in November 2010 to address pollutants "subject to regulation," including greenhouse gases, as required by the Tailoring Rule for use in those programs.</p>
<p>1.02 section 1.40</p> <p>The District should add a definition for "greenhouse gas" in Regulation 1.02.</p> <p>- <i>DAQ</i></p>	<p>1.02-10</p> <p>See Response to Comment 1.02-9.</p>

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1.02 section 1.42.6 This should be singular, not plural, since 1.42 is singular. - <i>GLI ATTF, Lubrizol</i>	1.02-11 The District agrees with the comment and will revise the proposed regulation accordingly.
1.02 section 1.42.5 This Section should be revised to read “Does not constitute a modification under any provision of Title I of the Act; and” to be consistent with the singular form of Section 1.42. - <i>GLI ATTF</i>	1.02-12 The District agrees with the comment and will revise the proposed regulation accordingly.
1.02 section 1.42.5 The definition of “Minor Permit Amendment” should be revised by deleting the statement “[a]re not modifications in the regulations promulgated by the District and” so it is consistent with EPA’s definition at 40 CFR 70.7(e)(2)(i)(A)(5) and Kentucky’s definition at 401 K.A.R. 52:020 14(e). - <i>GLI ATTF, PIAS</i>	1.02-13 The definition in Regulation 1.02 section 1.42.5 mirrors the definition of “minor permit revision” in Regulation 2.16 section 5.5. Regulation 2.16 implements 40 CFR part 70 and concurs with 401 KAR 52:020. The definition has been tailored in Regulation 1.02 to apply to those permits that are issued pursuant to Regulations 2.03 and 2.17 for purposes of determining fees under proposed Regulation 2.08.
1.02 section 1.42.6 The term “revisions” should be changed to “amendments” to be consistent with the terminology used elsewhere in the regulations. - <i>PIAS</i>	1.02-14 The District agrees with the comment and will revise the proposed regulation accordingly.
1.02 section 1.67 The definition of “Regulated Air Pollutant” should be revised to exclude greenhouse gases. - <i>PIAS</i>	1.02-15 The District revised Regulations 2.05 and 2.16 in November 2010 to address pollutants “subject to regulation,” including greenhouse

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	gases, as required by the Tailoring Rule. Regulation 1.02 section 1.67 does not include a reference to greenhouse gases.
1.02 section 1.71 The definition of “Significant Permit Amendment” should be revised to be consistent with Kentucky’s definition at 401 K.A.R. 52:020 (16). - <i>PIAS</i>	1.02-16 The definition in Regulation 1.02 section 1.71 mirrors the definition of “significant permit revision” in Regulation 2.16 section 5.7. Regulation 2.16 implements 40 CFR part 70 and concurs with 401 KAR 52:020. The definition has been tailored in Regulation 1.02 to apply to those permits that are issued pursuant to Regulations 2.03 and 2.17 for purposes of determining fees under proposed Regulation 2.08.
1.02 section 1.71 Sections 1.71.3 and 1.71.4 should be deleted because they are not part of the state definition. - <i>GLI ATTF</i>	1.02-17 See Response to Comment 1.02-16.
1.02 section 1.78 The term “facility” should be replaced with “affected facility” or “emission unit” to clarify the scope of “trivial activities.” - <i>GLI ATTF, PIAS</i>	1.02-18 Use of the suggested terms may unnecessarily limit the scope of trivial activities; however, the District will substitute “activity” for “facility” in the proposed definition and in Regulation 2.16 section 1.43.
1.02 section 1.78 If the list of trivial activities is only limited to those appearing on the District’s list, the list of approved insignificant activities must be made a part of the regulation or incorporated by reference in the regulation. - <i>PIAS, KPC, LG&E, GLI ATTF</i>	1.02-19 Trivial activities are, by definition, “inconsequential.” Generally speaking, these activities lack specific applicable requirements and have extremely small emissions. See <i>White Paper for Streamlined Development of Part 70 Permit Applications</i> , p. 9 (July 10, 1995), available at http://www.epa.gov/ttn/caaa/t5/memoranda/fnl

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	wtppr.pdf . They may be determined on a case-by-case basis by the District. The definition in Regulation 1.02 section 1.78 mirrors the definition of “trivial activity” in Regulation 2.16 section 1.43. Regulation 2.16 implements 40 CFR part 70 and concurs with 401 KAR 52:020. The list of trivial activities is available on the District’s website at http://www.louisvilleky.gov/NR/rdonlyres/C8756F81-87C5-40C0-95C5-677580276E3B/0/Trivial.pdf .

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<p>2.02 General</p> <p>The District should consider Permit-by-Rules as an alternative approach for regulating small sources.</p> <ul style="list-style-type: none"> - <i>PIAS, GLI ATTF</i> 	<p>2.02-1</p> <p>See Response to Comment General-2.</p>
<p>2.02 General</p> <p>Changing the threshold to actual emissions will allow more facilities to qualify for the Registration program as potential emissions grossly overstate a stationary source's reasonable operating conditions.</p> <ul style="list-style-type: none"> - <i>PIAS</i> 	<p>2.02-2</p> <p>A source may qualify for registration under proposed section 4.1.3 by accepting an enforceable limit on emissions. Because the limit may be based on potential or actual emissions, the suggested revision is unnecessary.</p>
<p>2.02 General</p> <p>Because of the extensive scope of the proposed changes to this Regulation, it would be clearer for the District to repeal the current Regulation and replace it with a proposed new Regulation.</p> <ul style="list-style-type: none"> - <i>GLI ATTF, KPC</i> 	<p>2.02-3</p> <p>Regulation 2.02 is part of the District's EPA-approved State Implementation Plan (SIP). The District is concerned that repealing and re-enacting the proposed regulation may cause confusion and/or unnecessarily delay EPA's subsequent approval of the proposed revisions.</p>
<p>2.02 General</p> <p>The Registration program should not be limited to those facilities that have only one insignificant activity. If a facility has more than one insignificant activity, but still has emissions below the threshold, they should still be allowed to use the Registration program as the concern is the actual release of air pollution and not how it is generated.</p> <ul style="list-style-type: none"> - <i>PIAS</i> 	<p>2.02-4</p> <p>Exempt stationary sources, which are regulated in Section 2 of the proposed regulation, are limited to operating one insignificant activity or demonstrating that they meet the applicable thresholds. Registered sources are regulated under Section 4 of the proposed regulation. A source may qualify for registration under section 4.1.3 or 4.1.4 by accepting an enforceable limit on emissions.</p>
<p>2.02 General</p> <p>The DAQ recommends the following edits:</p> <ul style="list-style-type: none"> • Check page margins. • Change "Air Pollution Control District 	<p>2.02-5</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly with the exception of the suggested revisions to</p>

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<p>of Jefferson County” to “Louisville Metro Air Pollution Control District”</p> <ul style="list-style-type: none"> • In “Necessity and Function” section, “needful” seems redundant with “necessary or proper” later in sentence. Other regulations in this package do not use “needful.” • In Section 1.3, consider providing the District’s website. • In Sections 2.1.1.1, 2.1.1.2, 4.1.1.1 and 4.1.1.2, consider changing “per year” to “12-month rolling period” to be consistent with limit imposed in Section 5 for surface coating processes. • In Section 2.1.1.1, is the comma necessary after “regulated air pollutant”? • In Section 4.1, is it necessary to have “in lieu of permitting” or can it be simply stated that “The following stationary sources are eligible for registration.”? • In Section 4.1.1., use “40 CFR <u>Parts</u> 60, 61...” instead for consistency. In Section header, consider using lower case “f” in “for.” <p>- <i>DAQ</i></p>	<p>sections 2.1.1.1, 2.1.1.2, 4.1.1.1, and 4.1.1.2. The regulatory thresholds in these provisions are consistent with the regulatory thresholds in Regulation 2.16 section 1.23, which applies to insignificant activities at Title V stationary sources.</p>
<p>2.02 section 1.3</p> <p>As discussed in the comments to Regulation 1.02 Sections 1.37 and 1.78, the District’s lists of approved insignificant activities and trivial activities should be made a part of the regulation, or the version of the lists in existence when the revised regulation is enacted should be incorporated by reference. A regulation cannot legally incorporate by reference a list that did not exist at the time of promulgation of the regulation and that will be created in the future.</p> <p>- <i>GLI ATTF, PAIS</i></p>	<p>2.02-6</p> <p>See Response to Comments 1.02-4 and 1.02-19.</p>

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<p>2.02 section 2</p> <p>The New Source Review (NSR) exemptions previously listed in Sections 2.1 through 2.3.27 should be retained. These exemptions should be part of the NSR State Implementation Plan. Otherwise, affected facilities previously exempt under these exemptions will have to apply for and obtain NSR permits. The existing introductory sentence to the NSR exemptions could be revised to read “permits shall not be required from the following” instead of “permits may not be required of the following” to minimize confusion.</p> <p style="padding-left: 40px;">- <i>GLI ATTF, PIAS, LG&E</i></p>	<p>2.02-7</p> <p>See Response to Comment 1.02-4.</p>
<p>2.02 section 2.1.1</p> <p>The term “potential to emit” should be deleted and replaced with “actual emissions” to increase the number of facilities that can qualify for the exemption. Using actual emissions allows more companies to either qualify for the exemption or participate in the Registration program. In addition, EPA allows states and local air pollution control authorities to set these types of prohibitory rules based on actual emissions.</p> <p style="padding-left: 40px;">- <i>PIAS</i></p>	<p>2.02-8</p> <p>Using potential to emit provides regulatory certainty and operational flexibility for a significant number of small stationary sources. Permitting based on actual emissions would increase the regulatory burdens on the regulated sources, including substantial recordkeeping, reporting, and monitoring, necessary to demonstrate continuous compliance. As a result, the District disagrees that the suggested revision is necessary. See also Response to Comment 2.02-2.</p>
<p>2.02 sections 2.1.1.1 and 2.1.1.2</p> <p>The 5 ton per year threshold should be increased to 10 tons per year to match the corresponding Ohio EPA small source threshold under the Permit-By-Rule program and would allow more facilities to either be considered exempt or participate in the Registration program.</p> <p style="padding-left: 40px;">- <i>PIAS</i></p>	<p>2.02-9</p> <p>The proposed regulatory thresholds are consistent with the lowest applicability thresholds of the District’s regulations. See, for example, Regulation 7.25, <i>Standard of Performance for New Sources Using Volatile Organic Compounds</i>, which requires the use of Best Available Control Technology when any equipment, machine, and other device, or any combination thereof at a source that uses</p>

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	VOCs subject to 7.25 and has the potential to emit greater than 5 tons of VOCs controlled under the regulation per year. The District estimates that approximately 450 of the 600 minor stationary sources currently permitted by the District meet the eligibility criteria proposed in Regulation 2.02 for exempt and registered sources based on potential emissions. As a result, the District disagrees that the suggested revision is necessary. The District is committed to continuing to streamline and refine its permitting process. This will include, among other things, developing permits-by-rule, general permits, and a combined constructing/operating permit program for Title V and FEDOOP sources.
2.02 section 2.1.2 This section should be deleted because it significantly constrains the ability of a company to qualify for an exemption and the most important parameter of the exemption is the amount of emissions and not how they are generated. - <i>PIAS</i>	2.02-10 A stationary source that does not qualify for the exemption proposed in section 4 of Regulation 2.02 may apply for registration pursuant to Section 4 or for a traditional minor source permit pursuant to Regulation 2.03.
2.02 section 2.3 This section should be clarified. The proposed requirement implies that the only way for a previously permitted stationary source to qualify for the exemption is to wait until the District evaluates all sources and notifies them. A source should be able to notify the District that it is no longer subject to the permit and request that it be rescinded. - <i>PIAS</i>	2.02-11 Existing stationary sources must continue to operate in accordance with their minor source operating permit until notified otherwise. The District will revise the regulation to allow existing stationary sources to request a determination in writing in accordance with proposed sections 2.4.2 and 2.4.3.
2.02 section 2.3 If a source meets the requirements of section	2.02-12 The District disagrees with the suggested

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<p>2.1.1 or 2.1.2, then the source is exempt from obtaining a permit. In section 2.3, the District will notify in writing that the source is exempt and not subject to registration. So later it is clarified that if the source meets the exemptions listed in 2.1, then the source is exempt from registering. Consider changing Section 2.1 language to “The following stationary sources are exempt from the requirement <u>to register with the District</u> to construct or operate.”</p> <p>- <i>DAQ</i></p>	<p>revision. Proposed section 2.3 is intended to advise minor stationary sources that are currently permitted by Regulation 2.03, but meet the thresholds in section 2.1.1 and 2.1.2, that further permitting pursuant to Regulation 2.03 or registration pursuant to Regulation 2.02 is unnecessary. The proposed text clarifies that neither registration nor a minor source permit is required for an existing permitted stationary source that is subsequently determined to be exempt.</p>
<p>2.02 section 2.4.3</p> <p>Please delete this requirement as there should not be a fee charged for a request for a determination. This is the policy in many other states and will discourage many small facilities from requesting assistance to ensure compliance with the requirements. The request for determination process can be made simple by incorporating the material use thresholds approved by EPA in the Potential to Emit (PTE) Guidance for Specific Sources memo so that a facility does not have to hire a consultant and it would not require extensive review by permit engineering staff. One approach that works well is the one established by the PADEP and is now online. See http://www.dep.state.pa.us/dep/deputate/airwaste/aq/permits/rfd.htm for more information.</p> <p>- <i>PIAS</i></p>	<p>2.02-13</p> <p>The District is providing the opportunity to request a determination as a convenience. It is not required. As part of its continued permit streamlining efforts, the District intends to propose permits-by-rule and general permits, some of which may include the suggested material use threshold approach. The District is also committed to exploring on-line permitting. The District appreciates the reference and recommendation for PADEP’s DEPGreenPort application and will evaluate its utility as part of its commitment to developing on-line, web-based reporting and application processes consistent with EPA’s Cross-Media Electronic Reporting Regulation (CROMERR).</p>
<p>2.02 section 4.1.3</p> <p>How do sources register? Using a form? If so, where can it be found? Incorporate by reference?</p> <p>- <i>DAQ</i></p>	<p>2.02-14</p> <p>A stationary source may register in accordance with Section 4 using APCD Form AP100-C, which has been incorporated by reference in the proposed regulation. A draft of this form is included in Attachment A. If proposed</p>

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	Regulation 2.02 is adopted, the form will be available on the District's website at http://www.louisvilleky.gov/APCD/Permits/PermitApplicationForms.htm .
2.02 section 4.1.3 In Section 4.1.3, how is a limit enforced for a registered source? - <i>DAQ</i>	2.02-15 Emissions from registered sources that accept a limit on emissions will be limited by hours of operation, shifts, material usage or production restrictions. Similarly, these sources will be required to maintain records sufficient to demonstrate compliance with the registration thresholds. These may include hours of operation, shifts, material purchase and use records, or production records and will be specified in Form AP100-C and, if approved, referenced in the registration authorization issued by the District.
2.02 section 4.1.1 The term "potential to emit" should be deleted and replaced with "actual emissions" to increase the number of facilities that can qualify for the exemption. Using actual emissions allows more companies to either qualify for the exemption or participate in the Registration program. In addition, EPA allows states and local air pollution control authorities to set these types of prohibitory rules based on actual emissions. This is outlined in the Potential to Emit (PTE) Guidance for Specific Sources guidance. - <i>PIAS</i>	2.02-16 The District disagrees. Using potential to emit provides regulatory certainty and operational flexibility for stationary source permitting. Permitting based on actual emissions would increase the regulatory burdens on the regulated sources, including substantial recordkeeping, reporting, and monitoring, necessary to demonstrate continuous compliance. The District has proposed section 4.1.3 to allow a stationary source to qualify for registration by accepting an enforceable limit on emissions.
2.02 sections 4.1.1.1, 4.1.1.2 and 4.1.4 The 5 ton per year threshold should be increased to 10 tons per year to match the corresponding Ohio EPA small source threshold under the Permit-By-Rule program	2.02-17 See Response to Comment 2.02-9.

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and would allow more facilities to either be considered exempt or participate in the Registration program. - <i>PIAS</i>	
2.02 Section 5 “Certain Surface Coating Processes” should be defined. - <i>PIAS</i>	2.02-18 The term is defined in Section 5 of Regulation 2.02. It means “surface coating processes located at exempt or registered stationary sources that do not emit more than 5 tons of volatile organic compounds in any 12-month rolling period and operate a surface coating process that would otherwise be subject to Regulations 6.09, 6.24, 6.31, 6.44, 7.08, 7.25, 7.59, or 7.79.”
2.02 section 4.3.1 Please delete the sentence “An application fee shall be submitted to the District prior to commencing construction on a new or modified registered stationary source” as a permit fee for this activity is not necessary and would prohibit many small sources from requesting this status. - <i>PIAS</i>	2.02-19 Unlike exempt sources, registered sources may be subject to the same applicable requirements, including New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants in 40 CFR Parts 60, 61, or 63, as minor sources. Because the required review is essentially the same, the District has proposed the same application fee for construction of a new or modified stationary source registered under Regulation 2.02 section 4 or permitted under Regulation 2.03 as a minor stationary source.
2.02 section 4.4.5 Please delete this requirement as an annual fee and registration form is both economically and administratively burdensome. The justification for such a requirement is hard to conceive as once a source becomes registered and no changes are made to the operation that would require re-registration, what administrative and technical support is required from the District.	2.02-20 Section 4.4.5 does not require an annual fee and a registration form. It requires the payment of an annual fee and completion of an annual certification form. A draft of this form is included in Attachment A. If the proposed regulation is adopted, the form will be available on the District’s website at http://www.louisvilleky.gov/APCD/Permits/Pe

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<p>This fee and requirement will only deter facilities from seeking to be covered by this new approach.</p> <p>- <i>PIAS</i></p>	<p>rmitApplicationForms.htm.</p>
<p>2.02 section 4.4.5</p> <p>The District should provide more clarity regarding the nature of the certification required under this Section.</p> <p>- <i>GLI ATTF</i></p>	<p>2.02-21</p> <p>See Response to Comment 2.02-20.</p>
<p>2.02 section 4.5</p> <p>Provisions should be added to require reasonable notice to a registered stationary source before the District withdraws authorization to operate under this Section.</p> <p>- <i>GLI ATTF, PIAS</i></p>	<p>2.02-22</p> <p>Due process safeguards are provided in Regulation 2.09 Section 2. The District will propose in a separate rulemaking amending section 3.2, which provides that the District may suspend a permit for non-payment, as follows: Failure of the permittee to timely pay permit fees pursuant to Regulation 2.08 Emissions Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees section 2.11.</p>
<p>2.02 section 5.3.1.1.1</p> <p>Please delete this limitation as it is not clear why both an emission limit and a material use limit are required. The key limit is the emission limit contained in section 5.3.1.1 and the material use limit will only place constraints on a surface coating operation that are not necessary and will inhibit their operational flexibility.</p> <p>- <i>PIAS</i></p>	<p>2.02-23</p> <p>Proposed sections 5.3.1.1.1 and 5.3.1.1.2 are alternate methods of demonstrating compliance with the VOC limit in section 5.3.1.1. A small surface coater may demonstrate compliance by estimating VOC emissions using the simple material use limit in section 5.3.1.1.1 or more precisely calculating VOC emissions using the equation in section 5.3.1.1.2, which takes into account actual usage of VOC containing materials and VOC content.</p>
<p>2.02 section 5.3.2</p> <p>In Section 5.3.2, how is the opacity limit enforced? The recordkeeping section (Section</p>	<p>2.02-24</p> <p>The opacity limit in section 5.3.2 is identical to the opacity limit in Regulations 6.08 and 7.09.</p>

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5.4) does not list requirements for opacity monitoring and recordkeeping. - <i>DAQ</i>	It is enforced in accordance with Regulation 1.09.

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<p>2.03 General</p> <p>Because of the extensive scope of the proposed changes to this Regulation, it would be clearer for the District to repeal the current Regulation and replace it with a proposed new Regulation.</p> <ul style="list-style-type: none"> - <i>GLI ATTF, KPC</i> 	<p>2.03-1</p> <p>Regulation 2.03 is part of the District's EPA-approved State Implementation Plan (SIP). The District is concerned that repealing and re-enacting the proposed regulation may cause confusion and/or unnecessarily delay EPA's subsequent approval of the proposed revisions.</p>
<p>2.03 General</p> <p>The DAQ recommends the following edits:</p> <ul style="list-style-type: none"> • Check page margins • Revise the title to state "Louisville Metro Air Pollution Control District Jefferson County, Kentucky" • Switch "Relates To" and "Pursuant To" lines for consistency with other regulations. • In "Necessity and Function" section, "needful" seems redundant with "necessary or proper" later in sentence. Other regulations in this package do not use "needful". • In Section 3.1, remove regulation titles because it is not done in every case. • In Sections 3.3 and 3.5, consider spelling out 1%: "1% (one percent) asbestos by weight". • In Section 3.6, delete space before "A person may be...." • In Sections 4.3.2 and 4.3.3, delete one space before "Supplement" and "Address", respectively. • In Sections 6.8.2.1 through 6.8.2.3, indent one tab. • In Section 7.1.2, should the rest of the regulations spell out numbers like it is done here for sixty (60)? Or only for numbers less than ten (10)? • In Section 8.1, consider "If a source in Jefferson County is relocated <u>and a</u> 	<p>2.03-2</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly with the exception of the style/formatting revisions suggested in sections 3.3, 3.5, 7.1.2, 8.1, 8.3, or 9.1.1.</p>

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<p>change of address <u>ensues</u>....”</p> <ul style="list-style-type: none"> • In Section 8.3, consider changing “which locates in” to “which locates <u>to</u>”. • In Section 9.1.1, consider: “a comparable and entirely new facility”. - <i>DAQ</i> 	
<p>2.03 Section 3</p> <p>These provisions are not necessary, as the federal asbestos NESHAP is already incorporated by reference in Regulation 5.04.</p> <ul style="list-style-type: none"> - <i>GLI ATTF</i> 	<p>2.03-3</p> <p>These provisions establish the notification and permitting requirements for the District’s asbestos management program, which includes Regulation 5.04, which adopts the federal asbestos NESHAP by reference and Regulation 5.13, which establishes <i>additional</i> control standards and requirements for asbestos projects that are conducted in Jefferson County, KY.</p>
<p>2.03 section 4.2.1</p> <p>The certification language should be revised and the phrase “based on information and belief formed after reasonable inquiry” should be added, consistent with the District’s application for construction and operating permits.</p> <ul style="list-style-type: none"> - <i>GLI ATTF</i> 	<p>2.03-4</p> <p>The District will revise the certification language applicable to Regulation 2.03 to state that "Based on information and belief formed after reasonable inquiry, I certify that the statements and information in this document are true, accurate and complete." See revisions in section 6.6.1.</p>
<p>2.03 section 4.3</p> <p>This Section should provide that the applicant shall be given reasonable time to prepare responses to the District’s request for additional information.</p> <ul style="list-style-type: none"> - <i>GLI ATTF, LG&E</i> 	<p>2.03-5</p> <p>The District disagrees with the suggested revision. The District works cooperatively with applicants to obtain information necessary to complete permitting in a timely, responsible, and professional manner.</p>
<p>2.03 Section 6</p> <p>The District should provide instructions on</p>	<p>2.03-6</p> <p>The District will review Form 272 and add a</p>

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how to complete Asbestos Demolition and Renovation Form 272. Specifically the "Type of Notifications" should be defined and a description of the categories provided in section 7 "Type of Project." - LG&E	definition for "Type of Notification" and descriptions for "Type of Project" necessary to clarify the requirements.
2.03 Section 6 It should be made clear on a form, form instructions, and in the regulation that 24-hour notifications are required for asbestos abatements under existing Blanket and Long-Term asbestos permits since these types of notifications are presently required. - LG&E	2.03-7 With respect to annual permits, the required notifications for each individual project authorized under the Blanket or Long -Term permit will be stated in the "Permit Condition" section of the issued permit.
2.03 Section 6 The District should provide a standardized form to use for 24-hour notifications for asbestos abatements under Blanket and Long-Term asbestos permits. This would provide clarity on what type of information should be included and how that communication should be provided and to whom it should be submitted. - LG&E	2.03-8 The District agrees with the recommended suggestion and will develop a standard notification form for 24-hour notice of asbestos abatement activity authorized under the Blanket or Long-Term permit.
2.03 Section 6 It should be provided in the regulation that the District will notify the entity submitting a 10-working day asbestos notification on Form 272 whether the project is approved and can commence. - LG&E	2.03-9 The District disagrees with the suggested revision. After the District receives a notification (Form 272), it will issue a permit which authorizes the project and thereby notifies the applicant that it may proceed. Form 272 may be submitted any time up to 10 business days before the start date of an asbestos project.
2.03 Section 6	2.03-10

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<p>The District should make it clear on Form 272 (or provide form instructions) what activities the District will issue a paper permit, which activities only require an affirmation of receipt from the District and what activities are exempt.</p> <p>- <i>LG&E</i></p>	<p>After the District receives and reviews an asbestos notification form (Form 272), it will issue a permit to authorize the project or will notify the responsible party if the project cannot be permitted or is exempt from permitting. With respect to annual permits, the required notifications for each individual project authorized under the Blanket or Long - Term permit will be stated in the "Permit Condition" section.</p>
<p>2.03 section 6.6</p> <p>The phrase "registered pursuant to Regulation 2.02 or" should be removed because certification for registered sources is already required by Regulation 2.02 Section 4.4.5.</p> <p>- <i>GLI ATTF</i></p>	<p>2.03-11</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly.</p>
<p>2.03 section 6.6</p> <p>The District should provide more clarity regarding the nature of the permit certification required under this Section.</p> <p>- <i>GLI ATTF</i></p>	<p>2.03-12</p> <p>A draft of the certification form is included in Attachment A. If the proposed regulation is adopted, the form will be available on the District's website at http://www.louisvilleky.gov/APCD/Permits/PermitApplicationForms.htm.</p>
<p>2.03 section 6.6</p> <p>Provisions should be added to require reasonable notice to a stationary source before the District withdraws authorization to operate under this Section.</p> <p>- <i>GLI ATTF</i></p>	<p>2.03-13</p> <p>Due process safeguards are provided in Regulation 2.09 Section 2. The District will propose in a separate rulemaking amending section 3.2, which provides that the District may suspend a permit for non-payment, as follows: Failure of the permittee to timely pay permit fees pursuant to Regulation 2.08 Emissions Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees section 2.11.</p>
<p>2.03 Section 7</p>	<p>2.03-14</p>

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<p>The sequence of the timing between the permit submittal and District notification is not clear and needs to be better described. In Section 7.1.1, the source is allowed to begin constructions 10 days after the submission of a “complete” application form. It is not clear when an application is deemed complete is it upon submission or when the District responds with a notification. [sic] If it is when the District responds, it has up to sixty days (Section 7.1.2) to contact the source once the application is submitted to notify them if an application is not required, if the application is acceptable as submitted, or if the source is required to apply for a permit under this regulation or cease operation.</p> <p>- <i>PIAS</i></p>	<p>The District agrees with the comment and will clarify the proposed regulation as follows:</p> <p>7.1 Stationary sources shall notify the District prior to constructing or reconstructing any air pollution control equipment. A permit is required to construct or reconstruct any air pollution control equipment that results in an increase of any air pollutant or the emission of a new air pollutant.</p> <p>7.1.1 A stationary source may commence constructing or reconstructing an air pollution control device ten (10) days after submitting an application to construct, paying the applicable application fee, and notifying the District in writing of its intent to begin construction prior to the issuance of a construction permit.</p> <p>7.1.2 The District shall review the application and notify the stationary source within sixty (60) days of receipt of the submittal that:</p> <p>7.1.2.1 a construction permit issued by the District is not necessary for the project; or</p> <p>7.1.2.2 a construction permit, including applicable fees, is required for the project.</p> <p>7.1.2.3 In the event the District determines that a construction permit is required, the stationary source must suspend construction until a construction permit is issued.</p>
<p>2.03 section 7.1</p> <p>This Section should clarify the form in which notification is to be made to the District, and what information must be provided.</p> <p>- <i>GLI ATTF</i></p>	<p>2.03-15</p> <p>The specific application form depends on the project. Application forms for air pollution control equipment, such as baghouses, scrubbers, etc., are maintained on the District’s website under “Control Devices” at http://www.louisvilleky.gov/APCD/Permits/PermitApplicationForms.htm. See also Response to Comment 2.03-16.</p>
<p>2.03 section 7.1.1</p>	<p>2.03-16</p>

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<p>This Section should be revised to clarify that a stationary source will not face enforcement action or penalties if it provides the appropriate notification and begins construction after 10 days, but the District later determines that a permit is necessary.</p> <p style="padding-left: 40px;">- <i>GLI ATTF</i></p>	<p>The District disagrees with the suggested clarification. The purpose behind proposed Section 7 is to avoid unnecessarily delaying the installation and operation of air pollution control equipment that reduces emissions.</p> <p>As specified in section 7.1, a permit is required for <u>any</u> air pollution control equipment that results in an increase of any air pollutant or the emission of a new air pollutant. (Emphasis added.) After review and within 60 days of receipt of a complete application, the District will notify the source that it has determined that the project may continue because (1) a permit is not required because, for example, the project is exempt or (2) the application is sufficient as submitted because the project does not increase emissions of any air pollutant or result in the emission of a new air pollutant. If the District determines instead that the project increases emissions of any air pollutant or actually results in the emission of a new air pollutant, the source must (3) apply for a permit issued pursuant to Regulation 2.03 or cease operation.</p>
<p>2.03 sections 7.1.2, 7.1.2.2, and 7.1.2.3</p> <p>The term “notification” should be used instead of “application” in these Sections because, at the point of notification, the District has not determined whether a permit application will be required.</p> <p style="padding-left: 40px;">- <i>GLI ATTF</i></p>	<p>2.03-17</p> <p>See Response to Comment 2.03-14. As additional clarification, the specific application form depends on the project. Application forms for air pollution control equipment, such as baghouses, scrubbers, etc., are maintained on the District’s website under “Control Devices” at http://www.louisvilleky.gov/APCD/Permits/PermitApplicationForms.htm.</p>
<p>2.03 section 7.1.2.3</p> <p>This requirement is very confusing as it states that once the District’s potential responses to a</p>	<p>2.03-18</p> <p>See Responses to Comment 2.03-14 and 2.03-</p>

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<p>permit application is that the source is required to apply for a permit under this regulation or cease operation. [sic] If the source has already submitted an application, how can they be required to submit one? Also, if a facility has submitted a construction permit application, how can it be told to cease operations of a source if they have not yet been provided a permit to even construct that source? This provision needs to be revised so the requirements are better explained.</p> <p>- <i>PIAS</i></p>	<p>17.</p>
<p>2.03 Section 8</p> <p>In section 8.1, should the location be Louisville Metro or Jefferson County?</p> <p>- <i>DAQ</i></p>	<p>2.03-19</p> <p>Louisville Metro is a consolidated city-county government. The reference to location remains "Jefferson County."</p>

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<p>2.08 General</p> <p>The District's entire budget should not be funded by fees from stationary sources, because the District also addresses issues important to the community that are unrelated to stationary sources, such as odors and fugitive emissions.</p> <p>- <i>GLI ATTF, PIAS, KPC</i></p>	<p>2.08-1</p> <p>As noted in the PRIA for Regulation 2.08, the District is funded through a variety of sources, including the Louisville Metro general fund; grants from EPA; Title V emissions fees; civil penalties; and permit and program fees, including those from the Strategic Toxic Air Reduction (STAR) program, Risk Management Program (RMP), Stage II and asbestos programs. The District agrees that air pollution is a community-wide concern and expects continued funding from the Louisville Metro General Fund to address concerns from mobile, residential, and other sources of pollution. The District notes that odors and fugitive emissions are released by all source categories, including significant levels from stationary sources.</p>
<p>2.08 General</p> <p>There should not be any fees imposed on stationary sources that are seeking registration status, minor source permits, and requests for determinations. The District has the opportunity to make further revisions to its permit program that would streamline the permitting program even further than what is proposed that would allow for the complete elimination of fees on small sources.</p> <p>- <i>PIAS</i></p>	<p>2.08-2</p> <p>The District is charged with more than just issuing permits. In short, it takes the agency operating as a whole to clean the air. The District is funded through a variety of sources, including the Louisville Metro general fund; grants from EPA; Title V emissions fees; civil penalties; and permit and program fees, including those from the Strategic Toxic Air Reduction (STAR) program, Risk Management Program (RMP), Stage II and asbestos programs with that goal in mind. The District is committed to continuing to streamline and refine its permitting process to reduce permitting burdens on regulated stationary sources. This will include, among other things, developing permits-by-rule, general permits, and a combined constructing/operating permit program for Title V and FEDOOP sources.</p>
<p>2.08 General</p>	<p>2.08-3</p>

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<p>While it is already in the current regulations, KPC wishes to call attention to the automatic CPI increase that is built into emission fees. Most industries cannot raise prices annually to cover the increase in the CPI. We believe that some thought should be given to the overall burden that the District's fees place on the regulated community, particularly how we compare to industries outside of Louisville Metro. We also want to reiterate our earlier comment that there continue to be a general fund appropriation.</p> <p style="text-align: center;">- <i>KPC</i></p>	<p>The District is not proposing to amend the provisions relating to the Consumer Price Index (CPI). A comparison of fees charged by other regulatory agencies is included in the PRIA for Regulation 2.08. The proposed fees are not inconsistent with the fees charged by other regulatory agencies. The District is not privy to how the regulated community compares to its industrial competitors outside of Louisville. See also Response to Comments 2.08-1 and 2.08-2.</p>
<p>2.08 General</p> <p>The structure of Regulation 2.08 as proposed may lead to confusion because many of the operative provisions in Sections 1 through 11 will continue to apply after FY 2013, but the fees in those Sections will not. It may not be obvious to the regulated community that the table of fees in Section 12 does not correspond with the fees listed in the other sections of this Regulation. Instead, the Task Force strongly recommends that two versions of Regulation 2.08 be proposed: one containing the operative provisions and the fees applicable to FY 2013, and one containing the operative provisions and the fees applicable to FY 2014 and thereafter. The first version could be set to automatically repeal on June 30, 2013. If the structure of this Regulation is retained as proposed, the table in Section 12 should be titled as "Schedule of Fees Beginning in FY 2014," and the applicability should be set forth in Section 12.1 instead of Section 1.1.</p> <p style="text-align: center;">- <i>GLI ATTF</i></p>	<p>2.08-4</p> <p>The District will amend proposed Section 12 to state "Schedule of Fees Beginning in FY 2014" and clarify the appropriate applicability provisions.</p>
2.08 Section 1	2.08-5

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<p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> Consider making sure that Section headers are with the first section, instead of leaving Section header on one page and the text starts on the next page. Delete space between "Regulation 2.08" and "Fees" In Section 1.1, consider referencing schedule of fees listed at end of regulation. Also, after first "Fiscal Year" insert "(FY)". In Section 1.1, consider: 1.1 "...which apply to all stationary sources beginning in FY 2014 (July 1, 2013 to June 30, 2014) and thereafter." In Section 1.4, consider: "Fees for construction permits, initial operating permits, renewal permits, or permits for Asbestos...." In Section 1.8, this is the first mention of "RMP," it is not defined in Regulation 1.02 so consider: "Risk Management Plan (RMP)." On the same line, insert "Section" before "1.3". Consider renumbering Section 1.8.1 to 1.9, as this outlines what happens when fees are not paid. In Section 1.9, consider: "The fiscal year for determining the applicable permit fee is defined as follows: 1.9.1 For construction permits, permit transfers, and asbestos demolition/renovations permits, the year in which the permit is issued; 1.9.2 For initial minor source operating permit, the year in which the construction permit expires and is not renewed pursuant to Section 4.5; 1.9.3 	<p>The District agrees with the comment and will revise the proposed regulation accordingly with the exception of the style/formatting revisions suggested in section 1.4 and sections 1.8.1 to 1.9.</p>

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<p>For initial FEDOOPs, the year in which construction or minor source operating permit expires and is not renewed; and 1.9.4 For renewal operating permits, the year in which the previous operating permit expires.”</p> <p>- <i>DAQ</i></p>	
<p>2.08 section 1.3</p> <p>This section should include a specific timeframe to implement the invoicing of the back fees. A schedule for invoicing those back fees should be included in the regulation to put the regulated community on notice as to when the back fees will be due.</p> <p>- <i>GLI EEC Air Subcommittee</i></p>	<p>2.08-6</p> <p>The District anticipates issuing the fees referenced in proposed section 1.3 before June 30, 2013. Payment will be due in accordance with proposed section 1.8 unless the District has approved a payment schedule in writing pursuant to proposed section 1.8.3.</p>
<p>2.08 section 1.8</p> <p>The regulation should specify the application procedure and identify the criteria to be met to have an installment schedule approved.</p> <p>- <i>GLI EEC Air Subcommittee</i></p>	<p>2.08-7</p> <p>Requests for a payment schedule are to be made in writing as stated in proposed section 1.8.3 and in section 1.6 of the existing regulation. They may be granted at the discretion of the agency.</p>
<p>2.08 section 1.8</p> <p>The proposed timeframe for payment is not achievable by many companies, whose internal billing practices require a longer amount of time to process payments and issue checks. Even if electronic payment is introduced, which the Task Force supports, the time required for approval and processing at many companies still exceeds the proposed timeframes. Instead, payment should be due within 90 days of the billing date. For annual fees, the District should be required to issue invoices within 60 days of the end of the fiscal year, or by some other date certain, so that</p>	<p>2.08-8</p> <p>The District notes that most businesses invoice on a 30-day billing cycle. The District’s current payment schedule in Regulation 2.08 was previously extended from 30 days to 45 days in October 2009 for the convenience of the regulated sources. The District agrees that sources should understand what fees will be due on an annual basis. For that reason, the District has proposed the look-up schedule in Section 12 as a simplified approach to billing. With the exception of Title V operating permit and STAR fees, which are based on source-specific emissions, the schedule lists a single,</p>

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regulated entities can plan and budget accordingly. - <i>GLI ATTF</i>	specific annual operating permit fee by source category for easy reference. This is a vast improvement over the District's current fee structure, which is based on a tonnage and per project basis.
2.08 section 1.8.3 The District should be required to provide notification to a company before automatically suspending an authorization to operate, to avoid cases in which a payment is not credited due to an accounting or other error. The Task Force recommends that the District be required to send a notice by registered mail if a fee payment is past due. The language in Section 1.8.3 should be revised to read: "Failure to pay emissions fees within 90 days of receipt of the notice shall automatically suspend...." - <i>GLI ATTF</i>	2.08-9 Due process safeguards are provided in Regulation 2.09 Section 2. The District will propose in a separate rulemaking amending section 3.2, which provides that the District may suspend a permit for non-payment, as follows: Failure of the permittee to timely pay permit fees pursuant to Regulation 2.08 Emissions Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees section 2.11.
2.08 Section 2 The DAQ recommends the following: <ul style="list-style-type: none"> • In Section 2.1, remove title of Regulation 2.16. • In Section 2.4.3, do greenhouse gases need to be defined? • In Section 2.5, remove title of Regulation 1.06. • Align section header to the left. - <i>DAQ</i>	2.08-10 The District agrees with the comment and will revise the proposed regulation accordingly with the exception of the suggested revision in 2.4.3. The District notes that greenhouse gases are defined in Regulations 2.05 and 2.16 for use in those regulations.
2.08 Section 3 The DAQ recommends the following: <ul style="list-style-type: none"> • In Section 3.2, consider "Application fees, paid at the time an application is submitted to the District are as follows: 3.2.1 For minor and registered sources, the fee is \$500. 3.2.2 For FEDOOP 	2.08-11 The District will revise the header alignment and in section 3.3. The District disagrees with the remaining suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions

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<p>construction or operating permits, the fee is \$750. 3.2.3 For Title V construction or operating permits; the fee is \$1,000.” Remove string of ellipses.</p> <ul style="list-style-type: none"> • In Section 3.3, align paragraph with previous sections. • In Section 3.4, consider making a declarative sentence rather than a sentence fragment, followed with “the fee is”. <p>- DAQ</p>	<p>in Section 3 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>
<p>2.08 Section 4</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In Section 4.1, “Permit fees... shall be based on the pollutant that has the largest potential to emit and are on a per permit basis.” Current wording implies a meaning different from permit fees are based on the kind of permit. Consider rewording this section. • For Section 4.3 consider: 4.3 Fees for each construction permit shall be determined as follows: 4.3.1 For sources subject to Federal PSD/NSR (includes “net-outs,” “offsets,” and other exemptions, or subject to NSPS or NESHAPS) the fee is \$8,357. 4.3.2 For sources with a potential to emit 100 tpy or more of a regulated air pollutant (RAP), the fee is \$5,571. 4.3.2.1 If a source is subject to NSPS (40 CFR Part 60), an additional fee of \$1,989 is incurred. 4.3.2.2 If a source is subject to NESHAPS (40 CFR Parts 61 or 63), an additional fee of \$1,989 is incurred. 	<p>2.08-12</p> <p>The District disagrees with the suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 4 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>

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<p>4.3.3 For sources with a potential to emit greater than or equal to 50 tpy and less than 100 tpy, the fee is \$3,383....etc.</p> <ul style="list-style-type: none"> • In Sections 4.3.2 and 4.3.3, delete one space before “Supplement” and “Address”, respectively. • In Section 4.5, delete ellipses after “The construction permit renewal fee shall be”. <p>- <i>DAQ</i></p>	
<p>2.08 Section 5</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In Section 5.2, change “process operation” to “operating”. • For Section 5.3, same recommendation as for Section 4.3. <p>- <i>DAQ</i></p>	<p>2.08-13</p> <p>The District disagrees with the suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 5 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>
<p>2.08 Section 6</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In Sections 6.2, same issue as Section 4.1. <p>- <i>DAQ</i></p>	<p>2.08-14</p> <p>The District disagrees with the suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 6 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>
<p>2.08 Section 7</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • For Section 7.1, consider: 7.1.1.2 For each additional full or partial increment of 1500 linear or square feet, up to a total of five (5) increments, an additional fee of \$797 is charged. Repeat for sections 7.1.1.3 	<p>2.08-15</p> <p>The District will revise section 7.1.6 accordingly. The District disagrees with the remaining suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 7 will be replaced by the proposed</p>

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<p>through 7.1.3.3.</p> <ul style="list-style-type: none"> For Section 7.1.4 consider: “The notification fee for...could not be measure previously, is \$38.” In Section 7.1.5 capitalize “Sections 7.1.1”. In Section 7.1.6, insert space between “sections” and “7.1.1”. Consider capitalization. In Section 7.1.8, capitalize “section”. In Section 7.1.9, consider “10% (ten percent).” In Section 7.1.11, consider making a declarative sentence. <p>- <i>DAQ</i></p>	<p>fee schedule in Section 12 beginning in FY 2014. With respect to sections 7.1.5 and 7.1.6. The capitalization of “section” in section 7.1.5 and 7.1.6 is consistent with the District’s longstanding convention of capitalizing the “S” when referring to the section as a whole, such as “Section 7.” When a section is further enumerated, such as “section 7.1.1,” the “s” is not capitalized.</p>
<p>2.08 Section 8</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> In Section 8.1 consider: “Applicability. Fees for Plantwide Applicability Limit (PAL) permits shall be:” and remove “(PAL)” from Section 8 title. For Sections 8.1.1 through 8.1.4, remodel with suggestions similar to 7.1.1.2. <p>- <i>DAQ</i></p>	<p>2.08-16</p> <p>The District disagrees with the suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 8 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>
<p>2.08 Section 10</p> <p>The increases in the Risk Management Plan (RMP) fees in section 10.2 seem excessive. Some facilities will see their fees almost quadruple. At a time when many agencies are turning this program back to EPA, KPC cannot see the justification for this level of increase in the RMP fees. The District has not justified the amounts being proposed for RMP Program fees.</p> <p>- <i>GLI ATTF, KPC</i></p>	<p>2.08-17</p> <p>The District has determined that local administration of the RMP program is important due to the high concentration of sources subject to the program in the Metro area and the location of these sources in heavily populated urban areas. The proposed fee schedule is based on the highest RMP program level for any process at a source and is intended to equitably adjust the fee for each source on the basis of program compliance, potential hazard, and source complexity.</p>

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<p>2.08 Section 10</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In Section 10.1, delete title of Regulation 5.15. • In Section 10.2, consider: 10.2 The RMP program fees shall be based on the highest RMP program level for any process at the source. RMP program fees for FY 2013 are as follows: 10.2.1 For RMP Program 1, the fee charged is \$723. 10.2.2 For RMP Program 2, the fee charged is \$1,250. 10.2.3 For RMP Program 3, the fee charged is \$2,647. <p>- DAQ</p>	<p>2.08-18</p> <p>With the exception of the suggested revision to section 10.1, the District disagrees with the remaining suggestions. Those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 10 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>
<p>2.08 Section 11</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In Section 11.1, consider: 11.1 Applicability. The STAR Program Fees apply to Group 1 and 2 stationary sources as defined in Regulation 5.00. The STAR Program fees for FY 2013 are: 11.1.1 For a Group 1 stationary source, the fee is the sum of \$5,691 plus \$208 per ton of actual emissions of HAPs and ammonia from the Group 1 source for CY 2010. 11.1.2 For a Group 2 stationary source, the fee is \$566. <p>- DAQ</p>	<p>2.08-19</p> <p>The District disagrees with the suggested revisions because those provisions are generally consistent with the current version of Regulation 2.08. If the proposed revisions are adopted, the provisions in Section 11 will be replaced by the proposed fee schedule in Section 12 beginning in FY 2014.</p>
<p>2.08 Section 12</p> <p>The application fee for operating permits for</p>	<p>2.08-20</p> <p>The District disagrees. The proposed</p>

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<p>Title V's and FEDOOPs should only apply to a new source. For an existing source, the application fee should only be required for construction permits because an annual operating permit fee is already being charged.</p> <p style="padding-left: 40px;">- <i>GLI ATTF, PIAS</i></p>	<p>application fee is intended to be charged in addition to other fees that may apply. It does not apply to annual operating fees, but it will apply when an application is submitted to the District to construct a new source, modify an existing source, or renew an operating permit at a Title V or FEDOOP source.</p>
<p>2.08 Section 12</p> <p>Instead of the proposed fee of \$5,000 per PSD pollutant for PSD/NSR review, the Task Force proposes that the fee be based on a schedule, or capped at a certain amount, such as the following possibilities:</p> <ul style="list-style-type: none"> • \$5,000 for the first pollutant and \$2,000 for each additional pollutant; or • \$5,000 for one pollutant, \$4,000 each for two pollutants, \$3,000 each for three pollutants, and \$2,500 each for four or more pollutants; or • \$5,000 for each pollutant, not to exceed \$10,000 in total. <p style="padding-left: 40px;">- <i>GLI ATTF</i></p>	<p>2.08-21</p> <p>The District disagrees with the suggested revision. Not every PSD or NSR project necessarily involves all of the regulated pollutants. However, when part of a project, each pollutant must be independently reviewed by the District for compliance with various thresholds and significance levels. As it stands, the District currently assesses one fee for PSD reviews regardless of whether emissions of one pollutant or six must be analyzed. Doing so essentially undercharges some applicants with multiple pollutants and shortchanges the District for the volume and complexity of work involved.</p>
<p>2.08 Section 12</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In Section 12.6, "PM" is not listed with definition in Regulation 1.02. "SO₂", CO, and H₂S are not defined either; are they implied in regulated air pollutant definition? • In Section 12.7.3, consider: "The notification fee for all asbestos...previously, is \$38." • In Section 12.7.4, insert "then" after "that is measured in square feet," • In Section 12.7.5, consider: 	<p>2.08-22</p> <p>The District will delete the reference to "\$38" in section 12.7.3 because the fee is already listed in the associated schedule. The District disagrees that the suggested revisions are necessary. Many, such as those suggested for sections 12.7.7, 12.7.5, and 12.7.4, are merely differences in drafting style. With respect to section 12.6, those pollutants are referenced in 40 CFR 52.21(b)(23)(i), which defines "significant" for purposes of PSD. 40 CFR 52.21 is incorporated by reference in Regulation 2.05. The pollutants are also listed in Appendix A of the District's NSR regulation</p>

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<p>12.7.5 If approved by the District, the amount of material involved in a project may be determined in cubic feet.</p> <p>12.7.5.1 For friable asbestos, an increment shall be 330 cubic feet.</p> <p>12.7.5.2 For Category I and II asbestos projects, an increment shall be 660 cubic feet.</p> <ul style="list-style-type: none"> • In Section 12.7.7, consider: “10% (ten percent)”. • In Schedule of Fees, there are quite a few items listed that are not explained in earlier sections of the regulation. Consider creating language to cover all of these items. Examples: Expedited Public Hearing, Stack Test Review, etc. <p>- <i>DAQ</i></p>	<p>2.04. The District disagrees that it is necessary to define “expedited public hearings,” which will be held at the request of or for the convenience of a permittee or “stack test review,” which applies to paperwork required for stack tests, for purposes of assessing a fee.</p>
<p>2.08 Section 12</p> <p>Please confirm that minor sources will be charged only a single \$1,000 annual operating fee in FY2014 and subsequent fiscal years, even if the minor source has not yet been issued the single combined construction/operating permit. Wording to confirm that should be inserted into the table for clarification to address the concern that the minor sources will be charged an annual fee for each current permit.</p> <p>- <i>GLI EEC Air Subcommittee</i></p>	<p>2.08-23</p> <p>Beginning in FY2014, a minor source will be billed an annual operating permit fee of \$1,000 in accordance with proposed section 1.7.</p>
<p>2.08 Section 12</p> <p>KPC is concerned about the significant increase in STAR fees that FEDOOPS will be forced to endure. The new fee amounts to a ten-fold increase in STAR fees. We understand that many sources may be able to take advantage of the “off-ramp” in Regulation 5,</p>	<p>2.08-24</p> <p>The proposed threshold is consistent with the original applicability limit for Group 2 stationary sources, which applied to sources that emitted 25 or more tons per year individually of sulfur dioxide, particulate matter, volatile organic compounds, or oxides</p>

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<p>but the lowering of the threshold from 50 tons to 25 tons will have a significant impact on our members. We believe the 50 ton threshold should be restored and that the District considers ways to mitigate the impact for the remaining FEDOOPS.</p> <p>- <i>KPC</i></p>	<p>of nitrogen. The District notes that the majority of the current Group 2 stationary sources, nearly 88%, have actual emissions less than the thresholds proposed for exemption. See Attachment A to the Preliminary Regulatory Impact Assessment, which shows that most Group 2 stationary sources have emissions less than 25 tons per year for all pollutants and less than 5 tons per year for emissions of all HAPs combined. The proposed limit strikes the appropriate balance between continuing the District's permit streamlining initiative and reducing the burden on small stationary sources.</p>
<p>2.08 Section 12</p> <p>The annual fee for FEDOOPs will represent a significant increase for many sources. In addition, it is not clear whether FEDOOPs that choose to take advantage of the STAR "off-ramp" in Regulation 5 Section 1.13.5 will still be subject to this \$1,500 annual fee.</p> <p>- <i>GLI ATTF, PIAS</i></p>	<p>2.08-25</p> <p>As proposed, small FEDOOP sources that accept the applicable emissions limits in section 1.13.5 will be defined as an "exempt stationary source" under the STAR Program. By definition, they will not be considered a "Group 2 stationary source" and therefore not subject to the increased STAR program fees. They will, however, remain subject to the \$1,500 annual fee since they will continue to be permitted to operate as FEDOOPs pursuant to Regulation 2.17.</p>
<p>2.08 Section 12</p> <p>The proposed fee of \$500 for minor and registered sources is not appropriate given the size of the regulated facility, which do not often spend resources on consultants. A better approach is to make the permitting process much simpler for the minor and registration sources.</p> <p>- <i>PIAS</i></p>	<p>2.08-26</p> <p>Hiring of a consultant is not a prerequisite for operation by any stationary source. The District has proposed numerous improvements to its permitting program, including clarifying exemptions, allowing registration in lieu of permitting, and developing streamlined standards, recordkeeping and alternative compliance demonstrations for small surface coaters. The District is committed to continuing to streamline and refine its</p>

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	permitting process. This will include, among other things, developing permits-by-rule, general permits, and a combined constructing/operating permit program for Title V and FEDOOP sources.
<p>2.08 section 12.3</p> <p>The Regulation should provide that the application fee will be credited towards the fee for the issued permit or authorization, or toward emissions fees or other charges, if the permit for which the application fee is paid is issued by the District.</p> <p>- <i>GLI ATTF</i></p>	<p>2.08-27</p> <p>The District disagrees with the suggested revision. The proposed application fee is intended to be charged in addition to other fees that may apply to a construction project or stationary source.</p>
<p>2.08 section 12.7</p> <p>It is not necessary to restate the asbestos fees in the table because they are already listed in Section 12.7. All fees related to asbestos should be listed in a single location.</p> <p>- <i>GLI ATTF</i></p>	<p>2.08-28</p> <p>The District agrees with the suggested revision will delete the reference to \$38 in proposed section 12.7.3.</p>

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<p>2.16 General</p> <p>The DAQ recommends the following:</p> <ul style="list-style-type: none"> • In clean version, remove line numbers. • Check page margins. • Remove titles of all District regulations referenced, reference only “Regulation #”. • Greenhouse gases are defined here but not in Regulation 2.08. Should GHGs be in Regulation 1.02? • Does “permittee” need to be defined? • Change “Air Pollution Control District of Jefferson County” to “Louisville Metro...” • Delete space between “Regulation 2.16” and “Title V...” • Switch lines “Pursuant To:” and “Relates To:” • In “Necessity and Function:” expand the last few words: “under the Act Title V Permits.” • Delete Regulation 1.02 title. • Section 1.2 is redundant with Regulation 1.02 definition of “Act”. • In Section 1.3, consider “<u>Section</u> 5.4 that:” • In Section 1.18.7 capitalize “section”. • In Section 1.19, the definition of “Final permit” seems awkward. • In Section 1.23.1.1, insert a space between “1,000” and “pounds”. • In Sections 1.23.1.4 and 1.23.1.5, are they dependent or independent of each other? (And vs. or) • In Section 1.23.2, does R&D need to be defined? 	<p>2.16-1</p> <p>The District will revise the heading for Regulation 2.16 to be consistent with other District regulations, check page margins, and make other grammatical and formatting revisions. With respect to sections 1.23.1.4 and 1.23.1.5, the provisions are dependent. Sections 1.23.1.5 and 1.23.1.6, on the other hand, are independent. The District disagrees that the remaining suggested revisions are necessary. Most are differences in drafting style. Others, such as section 4.1.8.1, do not require revision at this time. (This provision allowed the District to adjust the length of certain Title V permit terms as part of its initial implementation of the Title V program in order to stagger its renewal workload.) These provisions will be addressed in a later rulemaking when the District revises Regulation 2.16 to accommodate a combined construction/operating permit program. Finally, the capitalization of “section” in section 4.1.7 and elsewhere is consistent with the District’s longstanding convention of capitalizing the “S” when referring to the section as a whole, such as “Section 4.” When a section is further enumerated, such as “section 4.1.1,” the “s” is not capitalized.</p>

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<ul style="list-style-type: none">• In Section 1.26, capitalize “Section”.• In Sections 1.28 and 1.38, consider rewording “unless the text clearly indicates otherwise”.• In Section 2.1, move sentence starting with “Except as provided” next to “Permitted sources.” Replace Jefferson County with Louisville Metro?• In Section 2.3, move sentence starting with “Fugitive emissions from a” next to “Fugitive emissions.”• In Section 3.1, repeat formatting as suggested for Sections 2.1 and 2.3.• In Section 3.1.1 consider “Timely application.”• In Section 3.1.1.1.1 center align equation; instead of 11-15-93, use full date: November 12, 1993.• In Section 3.1.1.1.2 consider “1/3 (one-third)” and “2/3 (two-thirds)”.• In Section 3.1.1.1.3, consider “1/3 (one-third)”.• In Section 3.1.1.1.4, consider “2/3 (two-thirds)”.• In Section 3.1.1.1.5, replace Jefferson County with Louisville Metro? Also capitalize “Section”.• In Section 3.2, repeat line formatting as suggested for Section 3.1.• In Section 3.2.1, capitalize “Section”.• In Section 3.2.2, capitalize “Responsible Official”.• In Sections 3.3 and 3.4, repeat line formatting as suggested for Section 3.2.• In Section 3.5.4.2 consider: “Additional information related to the emissions of air pollutants sufficient to verify which	
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<p>requirement are applicable to the source, at the request of the District.</p> <ul style="list-style-type: none">• In Section 3.5.4.3, capitalize “Section”.• In Section 3.5.4.9, capitalize “Section”.• In Section 3.5.11, repeat line formatting as suggested for Section 3.3.• In Section 4.1, repeat line formatting.• In Section 4.1.7, capitalize “Section”.• In Section 4.1.8.1, what is the purpose of this statement?• In Section 4.1.8.2, capitalize “Section”.• In Section 4.1.8.3, insert period at the end of the sentence.• In Section 4.1.9, make “record keeping” one word. Check the rest of the section for consistency.• In Section 4.1.9.1.2, capitalize “Section”.• In Section 4.1.18.1, capitalize “Section”.• In Section 4.4, insert period at the end of title.• In Section 4.7.1, repeat line formatting.• In Section 5.1.4, use “a” instead of “an” before “permit application”.• In Section 5.2, consider: “Requirement for an Operating Permit.”• In Section 5.5, repeat line formatting.• In Section 5.5.1.4.2, check formatting of reference.• In Section 5.6, consider “Group Processing of Minor Revisions.”. Repeat line formatting.• In Sections 5.7 and 5.7.1, repeat line formatting.• In Section 5.8, repeat line formatting.• In Sections 5.9 and 5.9.1, can these be combined?	
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<ul style="list-style-type: none"> • In Section 5.9.2, “as apply to” is awkward wording. • In Section 5.9.3, consider “Notice of Intent to reopen.” • In Section 5.10, consider “Reopening for Cause by EPA.” • In Section 5.10.5, capitalize “Section”. • Delete space between “Section 6” and “Effect”. • Correct “USEPA” reference. - DAQ 	
<p>2.16 section 1.23</p> <p>The definition of “Insignificant Activity” should be revised to be identical to the definition at 401 K.A.R. 52:020 § 6. If an affected facility meets the requirements of Sections 1.23.1.1 through 1.23.1.3, it should be deemed an “insignificant activity,” whether or not it has previously been approved in a Title V permit or appears on the list maintained by the District.</p> <ul style="list-style-type: none"> - <i>GLI ATTF, PIAS, KPC</i> 	<p>2.16-2</p> <p>The District intends for the listing on its website to be a convenience, not a prerequisite. Under the proposed definition in Regulation 1.02, an "insignificant activity" is defined by certain thresholds that are similar to those already approved for the District’s approved Title V and Federally Enforceable District Origin Operating Permit (FEDOOP) programs. There, as with the proposed regulation, insignificant activities may be determined on a case-by-case basis or by reference to a list of insignificant activities, which is maintained in accordance with Regulation 2.16 section 1.23.1.3 and available on the District’s website at http://www.louisvilleky.gov/NR/rdonlyres/95348DF9-044D-4FD5-B621-72AD7638F5C7/0/insignificant.pdf. The list includes those activities listed in Regulation 2.02 sections 2.1 through 2.3.</p>
<p>2.16 sections 1.23.1.1.4 - 1.23.1.1.6</p> <p>If Sections 1.23.1.4 through 1.23.1.6 are retained, the definition should be restructured to clarify which of Sections 1.23.1.1 through 1.23.1.6 are</p>	<p>2.16-3</p> <p>The District disagrees with the suggested revisions. Insignificant activities may be determined on a case by case basis, if the</p>

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<p>conjunctive and which are disjunctive. The use of “and” and “or” to join items in this list may be confusing. Section 1.23.1 could be reworded as “An affected facility that meets all of the following provisions,” then Section 1.23.1.5 could read “at least one of the following provisions,” with proposed Sections 1.23.1.5 and 1.23.1.6 renumbered as 1.23.1.5.1 and 1.23.1.5.2, connected with “or.”</p> <p style="text-align: center;">- <i>GLI ATTF</i></p>	<p>activity meets all of the conditions established in sections 1.23.1.1 through 1.23.1.5. This case by case demonstration may be avoided if the activity is already included on the District’s list of insignificant activities in accordance with the alternative provided in section 1.23.1.6.</p>
<p>2.16 section 1.23.4</p> <p>If the District is requiring that an affected facility either be an approved insignificant activity in a Title V permit, or appear on the District’s list of approved insignificant activities, this list must be included in the regulations, or incorporated by reference, so that it goes through the required public notice and comment and EPA approval procedures.</p> <p style="text-align: center;">- <i>GLI ATTF, PIAS</i></p>	<p>2.16-4</p> <p>See Response to Comment 1.02-3.</p>
<p>2.16 section 1.25</p> <p>The definition of “Major Source” should be revised to include language addressing greenhouse gases consistent with EPA’s Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 82254 (Dec. 30, 2010).</p> <p style="text-align: center;">- <i>GLI ATTF</i></p>	<p>2.16-5</p> <p>See Response to Comment 1.02-8.</p>

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<p>2.17 General</p> <p>The DAQ recommends the following edits:</p> <ul style="list-style-type: none"> • Delete all regulation titles; refer to regulations by number only; • Delete “Air Pollution Control District of Jefferson County” and add “Louisville Metro ...;” • Switch “Pursuant to” and “Relates to” lines; • Capitalize “Responsible Official” in section 3.5; • Capitalize “section” in section 3.8; and • Consider the use of “incurred” for “borne” in Section 9. <p>- <i>DAQ</i></p>	<p>2.17-1</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly with the exception of the suggested revisions to sections 3.5 and 3.8 and Section 9. With respect to section 3.5, the District will revise the capitalization of “responsible official” in Regulation 2.03 to be consistent with its use here and in Regulation 2.16. The capitalization of “section” in section 3.8 is consistent with the District’s longstanding convention of capitalizing the “S” when referring to the section as a whole, such as “Section 9.” When a section is further enumerated, such as “section 3.8” or “section 6.2,” the “s” is not capitalized. Finally, the District appreciates the suggestion to substitute the use of “incurred” for “borne” in Section 9; however, the District disagrees that the substitution is necessary. The meaning of “borne” as used in Section 9, while arcane, has been clear since the regulation was adopted in 1994.</p>
<p>2.17 section 8.5.3</p> <p>Delete the phrase “germane and non-frivolous” and revise section 8.5.3 to state “There are no unresolved public comments.”</p> <p>- <i>DAQ</i></p>	<p>2.17-2</p> <p>The District disagrees with the suggested revision. The phrase, “germane and non-frivolous,” has been included in the District’s Title V and FEDOOP programs since 1995. It defines the public participation provisions required by Title V of the Clean Air Act. Specifically, as stated by the EPA, “[p]ublic objections to a draft permit, permit revision, or permit renewal must be germane to the applicable requirements implicated by the permit action in question. For example, objections addressed to portions of an existing</p>

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	<p>permit that would not in any way be affected by the proposed permit revision would not be germane. Public comments will only be germane if they address whether the draft permit is consistent with applicable requirements or requirements of part 70.” <i>Part 70 Operating Permit Program, Final Rule</i>, 57 Fed. Reg. 32250, 32290 (July 21, 1992). Likewise, non-frivolous objections must necessarily specify “the basis for [the] objection and present factual or other relevant information in support of [the] objection. See <i>Updated Prop Rev to Part70 Oper. Permits Rule</i> (Sept. 15, 1994) at: http://www.epa.gov/ttn/oarpg/t5pfpr.html</p>
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<p>5.00 General</p> <p>The DAQ recommends the following edits:</p> <ul style="list-style-type: none"> • Delete all regulation titles; refer to regulations by number only; and • Insert a space after “Section 2 Acronyms.” <p>- <i>DAQ</i></p>	<p>5.00-1</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly.</p>
<p>5.00 section 1.2.1</p> <p>Remove the symbol “⊗” and replace it with an “x” to read 1×10^{-6}.</p> <p>- <i>Lubrizol</i></p>	<p>5.00-2</p> <p>The District agrees with the comment and will revise the proposed regulation accordingly.</p>
<p>5.00 section 1.13</p> <p>The Task Force recommends using the originally-proposed threshold of 50 tons per year of a regulated air pollutant. The District has not provided an explanation for lowering this threshold by half.</p> <p>- <i>GLI ATTF, KPC</i></p>	<p>5.00-3</p> <p>The majority of the current Group 2 stationary sources, nearly 88%, have actual emissions less than the thresholds proposed for exemption. As shown on Attachment A to the Preliminary Regulatory Impact Assessment, most Group 2 stationary sources have emissions less than 25 tons per year for all pollutants and less than 5 tons per year for emissions of all HAPs combined. The proposed limits strike the appropriate balance between continuing the District’s permit streamlining initiative and reducing the burden on small stationary sources. It is also consistent with the original applicability limit for Group 2 stationary sources, which applied to sources that emitted 25 or more tons per year individually of sulfur dioxide, particulate matter, volatile organic compounds, or oxides of nitrogen.</p>
<p>5.00 section 1.13</p> <p>The Regulations should set forth the</p>	<p>5.00-4</p> <p>Only stationary sources with emissions limited</p>

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<p>monitoring, recordkeeping, reporting, and other requirements that will apply to sources that accept the limits in this Section. This could be accomplished in the clearest manner by enacting a new Regulation in Part 2 that contains the thresholds and the requirements for this new source category. A stationary source should be able to determine from the Part 2 Regulations which source category it belongs in, what fees it is subject to, and what requirements apply, without having to turn to another Part of the Regulations. At a minimum, a reference to this exemption should be made in the Part 2 Regulations</p> <p style="text-align: center;">- <i>GLI ATTF, KPC</i></p>	<p>pursuant to Regulation 2.17 are able to meet the exemption proposed in Regulation 5.00 section 1.13.5. Recordkeeping, reporting, and monitoring requirements necessary to limit emissions below certain thresholds, including Title V major source emission levels and those proposed in Regulation 5.00 section 1.13.5, are already set forth in Regulation 2.17 section 5. Enacting a new regulation in Part 2 is unnecessary.</p>
<p>5.00 section 1.13</p> <p>The phrase “with only one or more of the following” is confusing and should be reworded.</p> <p style="text-align: center;">- <i>GLI ATTF</i></p>	<p>5.00-5</p> <p>The District agrees with the comment and will revise the proposed regulation by deleting “only.”</p>
<p>5.00 section 1.13.5</p> <p>The way this new exemption is currently written, a source seeking to use the “off-ramp” to avoid a ten-fold increase in STAR fees for Group 2 sources has to have an issued permit to become exempt. The Task Force is concerned that the District will not have the resources necessary to process a large number of permit actions to incorporate these limits into operating permits before the increased fee must be paid.</p> <p style="text-align: center;">- <i>GLI ATTF, TCI</i></p>	<p>5.00-6</p> <p>The District agrees with the comment and will revise the proposed regulation to state:</p> <p>1.13.5 A stationary source that has applied for an operating permit in accordance with Regulation 2.17 and accepts the following emissions limits:</p> <p>1.13.5.1 25 tons per year of a regulated air pollutant;</p> <p>1.13.5.2 5 tons per year of a hazardous air pollutant (HAP); and</p> <p>1.13.5.3 12.5 tons per year of combined HAPs.</p>

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COMMENTERS

DAQ Kentucky Division for Air Quality
GLI ATTF Greater Louisville, Inc. Air Toxics Task Force
GLI EEC Air Subcommittee Greater Louisville, Inc. Energy and Environment Committee
LG&E LG&E and KU Energy LLC
KPC Kentucky Paint Council
PIAS Paint Industry Association of the South
PRIA Preliminary Regulatory Impact Assessment

ACRONYMS and ABBREVIATIONS

The following acronyms have the following meanings:

EPA – The U.S. Environmental Protection Agency
HAP – Hazardous Air Pollutant
MACT - Maximum achievable control technology
NESHAP – National Emission Standards for Hazardous Air Pollutants
NSPS - New Source Performance Standards
PTE – Potential To Emit
STAR – Strategic Toxic Air Reduction